

International Legal Education

JEFFERY ATIK AND ANTON SOUBBOT*

I. Introduction

The effects of globalization and, in particular, the events of September 11 have led to redoubled efforts by U.S. law schools to expand and deepen the study of international law. There are signs that the marginalization of international legal study in U.S. law schools (evidenced by its traditional place in upper-division, elective courses) is giving way to a new recognition of its centrality. For example, the University of Michigan Law School became the first law school to require a full course in international law.¹ By doing so, Michigan has declared that international law study is as fundamental as torts or civil procedure in the formation of the next generation of lawyers.

The ABA, which regulates U.S. law schools, has announced proposals to (slightly) reduce the burdens placed on schools sponsoring foreign legal study.² In addition, a host of new international legal initiatives continue to flower. The North American Consortium on Legal Education (NACLE), a group of U.S., Canadian, and Mexican law schools has created meaningful opportunities for student and faculty exchange within the NAFTA territory.³ Exciting new programs providing for joint basic law degrees (U.S. and foreign) are also

*Jeffery Atik is Professor of Law and Sayre Macneil Fellow at Loyola Law School (Los Angeles). Professor Atik currently serves as Vice Chair of the Committee on International Legal Education of the ABA Section on International Law and Practice. Anton Soubbot is a member of the Class of 2002, Loyola Law School (Los Angeles). The authors are grateful for suggestions and materials provided by Edith Friedler, David Gantz, Robert Lutz, John Murphy, Mathias Reimann, John Rogers and Stephen Zamora.

1. See University of Michigan Law School, *Law School Course Descriptions—Transnational Law*, available at http://cgi2.www.law.umich.edu/_ClassSchedule/CourseList.asp.

2. See American Bar Association Task Force on Foreign Programs, *Preliminary Report*, available at http://www.abanet.org/legaled/committees/task_force_prel.html.

3. See generally North American Consortium on Legal Education, *Introduction*, available at <http://www.nacle.org/pages/introduction.html>.

4. Cornell Law School has joint degree programs with Université de Paris I (Panthéon-Sorbonne) and Humboldt University in Berlin. See Cornell Law School, *Degrees, Joint Degrees, Curriculum*, at <http://www.lawschool.cornell.edu/admissions/degrees.htm>; Columbia Law School also operates a joint degree program with Paris I and has launched a joint degree program with the University of London. See Columbia Law

gaining momentum.⁴ Furthermore, many schools have developed innovative offerings in response to student interest in the war on terrorism.⁵

II. Proposed Changes to the Criteria for Approval of Foreign Study Programs

During 2001, the ABA Task Force on Foreign Programs issued for comments proposed changes to the existing criteria for approval of foreign study programs.⁶ The Task Force had received specific direction to decrease the frequency of on-site inspections of foreign programs as well as to eliminate barriers to collaborations between U.S. and foreign law schools.⁷

The proposal recommended a slight lengthening of the period between on-site inspections for foreign programs. Under the proposal, foreign programs (i.e., summer abroad, semester abroad, and cooperative programs) will be inspected in their initial year, in the fifth year, and then in every seventh year thereafter.⁸ This brings inspections (after the first and second inspection) into a seven-year cycle, which corresponds to the cycle for general inspections. The proposal was somewhat disappointing to schools operating foreign programs, in that the increase in cycle only takes effect after the first two on-site inspections (which remain in the first and fifth year).

Extraordinary inspections may also be triggered by any "changes in the academic content, location [and] physical facilities," by "significant changes in the number of students, costs [and] quality of instruction," as well as "a pattern of student complaints, implementation of externships and the number and nature of concerns raised by the last inspection report."⁹

The proposal recommends the insertion of language into the regulatory criteria explaining the ABA's "reason for concern" with foreign programs, and thus justifying what seems to some to be rather heavy-handed review. "[T]ypically students from law schools other than the sponsoring law school enroll in the programs, and quality assurance is critical before deans will permit students to enroll in another school's foreign summer program."¹⁰

A common set of criteria will apply to Individual Study Abroad and Cooperative Programs, with distinctions based on the number of participating students. Schools sending fewer than six students over a three-year period to a foreign institution will be required to file an annual report similar to the current individual study abroad form.¹¹ Schools sending more than six students would be required to enter into a formal written agreement with the foreign institution delineating "financial arrangements, persons in charge, expectations of both parties, the number of students permitted to enroll and how students will be

School: *International Programs*, at <http://www.law.columbia.edu/internationalprograms/october2001update/foreigndualdegree10.2001.html>.

5. For example, eight members of the faculty at Loyola Law School developed a seminar on Terrorism and the Law. See Loyola Law School, *Terrorism and the Law*, at <http://classes.lls.edu/spring2002/terrorlaw/index.html>.

6. See American Bar Association Task Force on Foreign Programs, *supra* note 2. The Council of the ABA Section on Legal Education and Admission to the Bar approved the release of these proposals at its August 2001 meeting.

7. See Memorandum from John A. Sebert, to Deans, Associate Deans, Persons Interested in Foreign Study for Law Students (Sept. 12, 2001), available at http://www.abanet.org/legaled/committees/task_force_prel.html.

8. See American Bar Association Task Force on Foreign Programs, *supra* note 2.

9. See *id.*

10. *Id.*

11. See *id.*

graded."¹² Full compliance with the Cooperative Program criteria will be required of a school that sends more than twelve students to a foreign institution; as such a program will be deemed a Cooperative Program.¹³

These proposals were presented and discussed at an ABA Conference on Foreign Legal Education held at Hastings College of the Law in San Francisco, October 27 and 28, 2001.¹⁴ The ABA Task Force will present its final report to the Council of the ABA Section on Legal Education and Admission to the Bar in February 2002. The new rules are expected to be effective for the 2002–2003 academic year.¹⁵

III. University of Michigan Required Course on “Transnational Law”

The University of Michigan Law School became the first American law school to require a course in international law for graduation.¹⁶ The course is entitled “Transnational Law,” and combines elements found in traditional courses in International Law, Conflict of Law, Comparative Law, International Litigation and International Business Transactions.¹⁷ The course has been designed to provide essential knowledge for the effective practice of law in an increasingly globalized setting, as well as to serve as a foundation for advanced course work in international law.¹⁸

Transnational Law, a two-credit course, is required for graduation beginning with the 2001–2002 academic year. Students may enroll in the course during their first year of study or in the upper years of the J.D. program.¹⁹ Envisioned as “an introduction to the international dimensions of law,”²⁰ Transnational Law was designed by the Michigan faculty to address two specific considerations. First, the Michigan faculty believes that every law student must be exposed to a minimum amount of international law in order to practice. Second, as a foundational course, Transnational Law will serve as a prerequisite for advanced offerings in the international area.²¹ By imparting the basics of both public and private international law” in a first-year course, specialized courses can be enhanced with additional material or the credit hours of such courses can be reduced. The Transnational Law course will reduce the redundancy of standard groundwork that afflicts many specialized courses in international law.

The Michigan faculty notes that the required Transnational Law course will ensure that each student, irrespective of his or her personal inclinations, “take[s] [a] serious look at law on the international level.”²² The Michigan Law School, for its part, acquires an attractive recruiting device commensurate with the increased interest in international law among law school applicants.

12. *Id.*

13. See American Bar Association Task Force on Foreign Programs, *supra* note 2.

14. See American Bar Association, *Conference on Foreign Legal Education*, at <http://www.abanet.org/legaled/calendar/conferences/foreigned.html>.

15. See Memorandum from John A. Sebert, *supra* note 7.

16. See University of Michigan Law School, *supra* note 1.

17. Information on the contents of the Transnational Law course was obtained from a Committee Report (on file with author).

18. See University of Michigan Law School, *supra* note 1.

19. See *id.*

20. *Id.*

21. See *id.*

22. *Id.*

The Transnational Law course at Michigan examines both public and private spheres of international law.²³ Regarding public international law, the course will consider the sources and fundamental principles of public international law; the role of trade regimes; international, regional, and nongovernmental institutions; and the domestic force of international law. With respect to private international law, the Transnational Law course examines principles of international civil jurisdiction, international commercial arbitration, the transboundary effects of judgments, and the key conventions affecting private disputes. The Transnational Law course will not replace advanced courses in public international law, conflicts of law or international litigation, but will provide a common foundation, liberating teachers of the advanced courses to give deeper coverage of the respective materials.

In making the Transnational Law course mandatory, the Michigan faculty "conveys the important message that the international dimensions of law have become so pervasive that (as [their] alumni tell [them]) their study is not an option but a necessity. Michigan is meeting challenges in staffing four sections of the course and in preparing appropriate teaching materials. There is considerable interest in the Michigan model (at least among international law teachers) across the country.

IV. North American Consortium on Legal Education

NACLE²⁴ was formed in August 1999, by nine law schools from Canada, Mexico, and the United States²⁵ with a general aim "to promote cross-border legal exchanges among [NAFTA] members."²⁶ NACLE's principal purpose is to enhance opportunities for students in NACLE member law schools to learn about the legal systems of the NAFTA members.²⁷ NACLE's specific programs and projects include student and faculty exchanges, "cooperation in research activities and publications; curricular development, summer study and special programs; distance learning and information technology, information exchanges and access to library resources; and mutual promotion of academic programs."²⁸

The participating NACLE schools were chosen on the basis of their "complementarity and shared areas of legal studies."²⁹ At least one school is located in each of the NAFTA members' federal capitals.³⁰ The NAFTA governments jointly awarded NACLE a \$350,000, four-year grant. The grant is expected to support the exchange of eighty-seven students during these four years. The U.S. share of the grant came from the Fund for Improvement of Post-Secondary Education (FIPSE) and was used during the 2000–2001 academic year to fund a series of "curriculum development workshops."³¹ During the ac-

23. See University of Michigan Law School, *supra* note 1.

24. Visit the NACLE Web site at <http://www.nacle.org/>.

25. The nine NACLE participants are Dalhousie University, McGill University and University of Ottawa (Canada); University of Arizona, George Washington University and University of Houston (USA); and Universidad Panamericana, Instituto Tecnológico y Estudios Superiores de Monterrey, and Instituto de Investigaciones Jurídicas (UNAM) (Mexico).

26. Newsletter of the Association of American Law Schools, *Nine Law Schools Form the North American Consortium on Legal Education* (Spring 2000), available at <http://www.nacle.org/Pages/news.html>.

27. See *id.*

28. *Id.*

29. *Id.*

30. See *id.*

31. *Id.*

ademic year of 2001–2002, the FIPSE grant and the grants from the Canadian and Mexican governments will fund scholarships for exchange students.³² The U.S. funds will be allocated equally among the three participating U.S. law schools.

Seventeen students received instruction in a neighboring NAFTA country during the 2000–2001 academic year. Students cited varying motivations for participating on the NACLE exchanges: some sought a general introduction into the legal system of the host country; others were interested in gaining an international perspective in specialized areas.³³ Despite the diversity of interests, students' evaluations unequivocally manifested an appreciation for the exposure to the legal subjects of the host country. The NACLE members in turn stress that while the "chief benefit" of the exchanges was the insight "into how foreign lawyers analyze legal issues," students also enjoyed the firsthand experience of living in a foreign culture.³⁴ Those who took classes in a foreign language had an opportunity to practice and improve upon their language skills. Some students were offered clerkships in the host country's agencies and law firms.³⁵

NACLE is an important vehicle for deepening integration among the legal education structures of the three NAFTA countries. It may serve as a prototype for an eventual ERASMUS-style institutionalization of recognition of exchanges and academic credits, thereby increasing opportunities for North American law students to obtain a deep exposure of the legal system of their neighboring countries.

32. See North American Consortium on Legal Education, *Report on First Year Activities* (2001), available at <http://www.nacle.org/pages/news.html>.

33. See *id.*

34. *Id.*

35. See *id.*

